



DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-821]

Utility Scale Wind Towers from Malaysia: Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that utility scale wind towers (wind towers) from Malaysia are not being, or are not likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2019, through June 30, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4047.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 16, 2020.¹ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.² A list of topics

¹ *See Utility Scale Wind Towers from India, Malaysia, and Spain: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 73023 (November 16, 2020) (*Initiation Notice*).

² *See* Memorandum, “Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The products covered by this investigation are utility scale wind towers from Malaysia. For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,³ we set aside a period of time in the *Initiation Notice* for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ We did not receive comments concerning the scope of the investigation of wind towers as it appeared in the *Initiation Notice*.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773(e) of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Dumping Margin (percent)
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³ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁴ *See Initiation Notice*, 85 FR at 73024.

CS Wind Corporation/CS Wind Malaysia Sdn Bhd ⁵	0.00
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Commerce preliminarily determines that CS Wind has not made sales of wind towers at LTFV. Further, because CS Wind is the only party for which an estimated weighted-average dumping margin has been calculated for this preliminary determination, Commerce preliminarily determines that wind towers from Malaysia have not been sold in the United States at LTFV during the POI.

Consistent with section 733(d) of the Act, Commerce has not calculated an estimated weighted-average dumping margin for all other producers and exporters because it has not made an affirmative preliminary determination of sales at LTFV.

Suspension of Liquidation

Because Commerce has made a negative preliminary determination of sales at LTFV with regard to subject merchandise, Commerce will not direct U.S. Customs and Border Protection to suspend liquidation or to require a cash deposit of estimated antidumping duties for entries of wind towers from Malaysia.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales

⁵ Commerce preliminarily determines that CS Wind Corporation and CS Wind Malaysia Sdn. Bhd. are a single entity (collectively, CS Wind). See Memorandum, “Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Malaysia: Preliminary Affiliation and Single Entity Memorandum for CS Wind Corporation and CS Wind Malaysia Sdn. Bhd.,” dated concurrently with this notice.

documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of such case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.⁶ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Commerce has modified certain of its requirements for service documents containing business proprietary information, until further notice.⁷

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination

⁶ See 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

⁷ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

Section 735(a)(2)(B) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. On May 17, 2021, the Wind Tower Trade Coalition (the petitioner) requested that Commerce postpone the final determination.⁸ In accordance with section 735(a)(2)(B) of the Act, because the preliminary determination is negative, and the petitioner has requested the postponement of the final determination, Commerce is postponing the final determination. Accordingly, Commerce will make its final determination by no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine 75 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: May 18, 2021.

Christian Marsh,

Acting Assistant Secretary

for Enforcement and Compliance.

⁸ See Petitioner's Letter, "Utility Scale Wind Towers from Malaysia: Request to Postpone Final Determination," dated May 17, 2021.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of the Investigation
- V. Affiliation and Single Entity Treatment
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Recommendation

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